

Internal Revenue Service

District Director

Date: FEB 17 1994.

Department of the Treasury
QRS, Stop 516-D
401 W. Peachtree St. NW.
Atlanta, GA 30365

Person to Contact:

Contact Telephone Number:

Employer ID Number:

File Folder Number:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted disclosed that you were incorporated under the non-profit laws of [REDACTED] on [REDACTED]. Article IV of your Articles of Incorporation state that the specific purposes for which your corporation is organized are:

- 1) To offer for sale books, bibles, and other printed matters;
- 2) To offer religious services to churches, religious establishments and all interested persons;
- 3) To offer for sale: assortment of religious books, pulpit, choir and baptismal robes and accessories, and other religious items that will assist and enhance the overall ministries of the church;
- 4) To offer these services: prepared weekly, monthly, quarterly, semi-annual and annual financial statement; clerical and administrative assistance; Bookkeeping and Accounting assistance; Financial planning and Fundraising assistance; videos and music;
- 5) The mail and service center will provide:
 - a) Full mailing service - presort first class mail, bulk mail processing, laser letters, labels, list management, inserting, folding, sorting, barcoding, fax service, UPS, Express and Priority Mail;
 - b) Packaging;
 - c) Postage Stamps;
 - d) Money Orders;
 - e) Money Transfer service;
 - f) Laser Typesetting and Design;
 - g) Photo Copying;
 - h) Lamination and a variety of other mail and related services.

The information you have submitted reflects that your primary activity, to which [REDACTED]% of your time and [REDACTED]% of your funds are attributed, is the retail sales of Bibles and other religious books, church supplies such as banners, communion table accessories, choir robes, usher pens and similar items, T-Shirts, audio cassettes, CDs, videos, postage, envelopes, boxes, key chains, pens, pencils, specialty items and gifts primarily to the religious community consisting of churches, other religious

organizations and christian families. You have indicated that these items will be sold at the suggested retail price or █% above cost.

You state that you will also provide the following services to churches and religious orders: bookkeeping, accounting, typing, desk top publishing and type setting, collating, binding, laminating, photocopying, fund raising, courier and mail service. You indicated in the fee schedule submitted with your application that the above services will be provided on the basis of a █% profit margin; however, your response to our inquiry indicated that some of these services may be provided below cost. You state that only █% of your time and █% of your funds will be attributed to the provision of services.

Your remaining time (█%) and funds (█%) will be attributed to fund raising activities at which you will introduce your products and services to churches, religious orders and the christian community. These activities will include an annual prayer breakfast, Christmas Concert and Black History Symposium to which tickets will be sold at █% above cost. With regard to your Christmas Concert, you have stated in your application that you will use this opportunity to introduce and market your products to a captive audience.

Section 501(c)(3) of the Code provides for the exemption from taxation of organizations which are organized and operated exclusively for religious, charitable, literary or educational purposes, no part of the net earnings of which may inure to the benefit of any individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulation provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes to one or more exempt purposes within the meaning of section 501(c)(3) and do not empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes. The Regulations further provide that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

An organization is not exempt merely because its operations are not conducted for the purpose of producing a profit. To satisfy the "operational test" the organization's resources must be devoted to purposes of section 501(c)(3) of the Code and the applicable regulations.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for any purpose specified in section 501(c)(3) unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit or private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled directly or indirectly by such private interests.

Section 1.501(c)(3)-1(e) of the Regulations provides that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the activities which are in furtherance of one or more exempt purpose.

Revenue Ruling 72-369, 1972-2 C.B. 245 states that an organization formed to provide managerial and consulting services at cost to unrelated exempt organizations does not qualify for exemption under section 501(c)(3) of the Code. The furnishing of services at cost lacks the donative element necessary to establish the activity as charitable. This case is distinguishable from the situation where an organization controlled by a group of exempt organizations and providing investment management services for a charge substantially less than cost solely to that group qualifies for exemption from Federal Income Tax under section 501(c)(3) of the Code. See Revenue Ruling 71-529, C.B. 1971-2 234. It should be noted that the organization which provided the management assistance to the participating not-for profit organizations received only a nominal fee for the services performed. This fee represented less than 15 percent of the total cost of operation. Most of the operating expenses of the organization, including the services they performed were paid for by grants from independent charitable organizations.

Revenue Rulings 72-369 and 71-529 indicate that an exempt organization can provide for-profit business type activities as long as they are substantially less than cost. Substantially below cost is generally represented by a figure of less than 15% of the total cost of operations.

The information submitted does not substantiate that your sales and services are limited to organizations exempt under section 501(c)(3) nor that they are conducted at substantially below cost.

In Better Business Bureau v. United States, 326 U.S. 279(1945) the Court stated that the presence of a single non-exempt purpose, if substantial in nature would destroy section 501(c)(3) exempt status.

Your purposes as stated in your Articles of Incorporation are not limited to one or more exempt purposes within the meaning of section 501(c)(3). Since your purposes include the conduct of business activities, your Articles of Incorporation empower you to engage in activities which are not in furtherance of exempt purposes. Also, your Articles of Incorporation do not dedicate your assets to an exempt purpose. Therefore, you do not meet the "organizational test" of section 501(c)(3).

The information submitted indicates that substantially all (100%) of your activities involve the operation of the trade or business of making retail sales of religious oriented items to the religious community. Your fund-raising activities are merely opportunities for you to promote and market your products at the expense of those in attendance. Though you have implied that the services you will conduct will be provided to religious organizations below cost, this activity is not substantial in comparison with your overall activities and the information submitted thereon is not conclusive.

The over-riding activity of your organization is the operation of a trade or business. There is nothing inherently charitable or religious in making retail sales even though such sales may consist primarily of religious items and be made primarily to the religious community. Your organization does not differ from businesses conducting similar sales and services that are operated for profit. Therefore, you do not meet the "operational test" of section 501(c)(3).

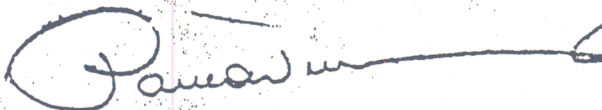
Accordingly, we conclude that you do not qualify for recognition of exemption under section 501(c)(3) of the Code or any other section of 501(a) thereof. Contributions to you are not deductible under section 170 of the Code. You are required to file Federal income tax returns on Forms 1120.

If you do not agree with our determination, you may request that the Office of Regional Director of Appeals consider the matter. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and we will contact you to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If someone will represent you who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter. Further, if you don't appeal this determination within the time provided, we will not consider you to have exhausted available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that, "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax

Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul Williams", with a long horizontal flourish extending to the right.

Paul Williams
District Director

Enclosure:
Pub 892 -